

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**SENATE BILL 1252\***

Short Title: Land Conservation Statutes Amendments. (Public)

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Sponsors: Senators Odom; Albertson, Clodfelter, and Kinnaird.

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Referred to: Agriculture/Environment/Natural Resources.

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June 6, 2002

A BILL TO BE ENTITLED  
AN ACT TO AMEND THE LAND CONSERVATION STATUTES OF THE STATE  
OF NORTH CAROLINA, AS RECOMMENDED BY THE ENVIRONMENTAL  
REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-130.34(a) reads as rewritten:

"(a) Any corporation that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for public beach access or use, public access to public waters or trails, fish and wildlife conservation, or other similar land conservation purposes is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in real property must be donated in perpetuity to and accepted by either the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions pursuant to G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. The credit allowed under this section may not exceed five hundred thousand dollars (\$500,000). To support the credit allowed by this section, the taxpayer must file with its income tax return, for the taxable year in which the credit is claimed, a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection."

**SECTION 2.** G.S. 105-151.12(a) reads as rewritten:

"(a) A person who makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, or (iv) other similar land conservation purposes is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value

1 of the donated property interest. To be eligible for this credit, the interest in property  
2 must be donated in perpetuity to and accepted by either the State, a local government, or  
3 a body that is both organized to receive and administer lands for conservation purposes  
4 and qualified to receive charitable contributions under the Code. Lands required to be  
5 dedicated pursuant to local governmental regulation or ordinance and dedications made  
6 to increase building density levels permitted under a regulation or ordinance are not  
7 eligible for this credit. The credit allowed under this section may not exceed two  
8 hundred fifty thousand dollars (\$250,000). To support the credit allowed by this section,  
9 the taxpayer must file with the income tax return for the taxable year in which the credit  
10 is claimed a certification by the Department of Environment and Natural Resources that  
11 the property donated is suitable for one or more of the valid public benefits set forth in  
12 this subsection."

13 **SECTION 3.** G.S. 113A-231 reads as rewritten:

14 "**§ 113A-231. Program to accomplish conservation purposes.**

15 The Department of Environment and Natural Resources shall develop a  
16 nonregulatory program that uses conservation tax credits as a prominent tool to  
17 accomplish conservation purposes, including the maintenance of ecological systems. As  
18 a part of this program, the Department shall exercise its powers to protect those interests  
19 in real property donated for tax credit under G.S. 105-130.34 or G.S. 105-151.12,  
20 conserved with the use of other financial incentives, or conserved through nonregulatory  
21 programs. The Department shall call upon the Attorney General for legal assistance in  
22 developing and implementing the program."

23 **SECTION 4.** G.S. 113A-232 reads as rewritten:

24 "**§ 113A-232. Conservation Grant Fund.**

25 (a) Fund Created. – The Conservation Grant Fund is created within the  
26 Department of Environment and Natural Resources. The Fund shall be administered by  
27 that Department. The purpose of the Fund is to stimulate the use of conservation  
28 ~~easements, easements and conservation tax credits~~ to improve the capacity of private  
29 nonprofit land trusts to successfully accomplish conservation projects, to better equip  
30 real estate related professionals to pursue opportunities for conservation, to increase  
31 ~~citizen-landowner~~ participation in land and water conservation, and to provide an  
32 opportunity to leverage private and other public monies for conservation easements.

33 (b) Fund Sources. – The Conservation Grant Fund shall consist of any monies  
34 appropriated to it by the General Assembly and any monies received from public or  
35 private sources. Unexpended monies in the Fund that were appropriated from the  
36 General Fund by the General Assembly shall revert at the end of the fiscal year unless  
37 the General Assembly otherwise provides. Unexpended monies in the Fund from other  
38 sources shall not revert and shall remain available for expenditure in accordance with  
39 this Article.

40 (c) Eligibility. – In order for land to be the subject of a grant under this Article,  
41 the land must possess or have a high potential to possess ecological value, must be  
42 reasonably restorable, and must qualify for tax credits under G.S. 105-130.34 or G.S.  
43 105-151.12. Private nonprofit land trust organizations must be qualified pursuant to

1 G.S. 105-130.34 and G.S. 105-151.12 and must be certified under section 501(c)(3) of  
2 the Internal Revenue Code.

3 (d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used  
4 only for the following purposes:

- 5 (1) The administrative costs of the Department in administering the Fund.
- 6 (2) Conservation grants made in accordance with this Article.
- 7 (3) To establish an endowment account, the interest from which will be  
8 used for a purpose described in ~~G.S. 113A-233(a)(3) or (a)(5)~~. G.S.  
9 113A-233."

10 **SECTION 5.** G.S. 113A-233 reads as rewritten:

11 "**§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

12 (a) Allowable Uses. – A grant from the Conservation Grant Fund may be used  
13 only to pay for one or more of the following costs:

- 14 (1) Reimbursement for total or partial transaction costs for donations of real property or interests in real property from individuals or  
15 corporations satisfying either of the following:
  - 16 a. Insufficient financial ability to pay all costs or insufficient  
17 taxable income to allow these costs to be included in the  
18 donated value.
  - 19 b. Insufficient tax burdens to allow these costs to be offset by the  
20 value of tax credits under G.S. 105-130.34 or G.S. 105-151.12  
21 or by charitable deductions.
- 22 (2) Management support, including initial baseline inventory and  
23 planning.
- 24 (3) Monitoring compliance with conservation easements, the related use of  
25 riparian buffers, natural areas, and greenways, and the presence of  
26 ecological integrity.
- 27 (4) Education on conservation, including information materials intended  
28 for landowners and education for staff and volunteers.
- 29 (5) Stewardship of land.
- 30 (6) ~~Transaction costs,~~ costs for recipients, including legal expenses,  
31 closing and title costs, and unusual direct costs, such as overnight  
32 travel.
- 33 (7) Administrative costs for short-term growth or for building capacity.

34 (b) Prohibition. – The Fund shall not be used to pay the purchase price for any  
35 interest in land."  
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37 **SECTION 6.** G.S. 113A-234 reads as rewritten:

38 "**§ 113A-234. Administration of grants.**

39 The Secretary of Environment and Natural Resources shall establish the procedures  
40 and criteria for awarding grants from the Conservation Grant ~~Fund.~~ Fund to private  
41 nonprofit land trust organizations and State and local government conservation land  
42 management agencies. The criteria shall focus grants on those areas, approaches, and  
43 techniques that are likely to provide the optimum positive effect on environmental

1 protection. The Secretary shall make the final decision on the award of grants and shall  
2 announce the award publicly in a timely manner.

3 The Secretary may administer the grants under this Article or may contract for  
4 selected activities under this Article. If administrative services are contracted, the  
5 Department shall establish guidance and criteria for its operation and contract with a  
6 statewide nonprofit land trust service organization."

7 **SECTION 7.** G.S. 113A-235 reads as rewritten:

8 "**§ 113A-235. Conservation easements.**

9 (a) Ecological systems and appropriate public use of these systems may be  
10 protected through conservation easements, including conservation agreements under  
11 Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic  
12 Preservation Agreements Act, and conservation easements under the Conservation  
13 Reserve Enhancement Program. The Department of Environment and Natural  
14 Resources shall work cooperatively with State and local agencies and qualified  
15 nonprofit organizations to monitor compliance with conservation easements and  
16 conservation agreements and to ensure the continued viability of the protected  
17 ecosystems. Soil and water conservation districts established under Chapter 139 of the  
18 General Statutes may acquire easements under the Conservation Reserve Enhancement  
19 Program by purchase or gift.

20 (b) The Department may convey real property or an interest in real property that  
21 has been acquired ~~under the Conservation Reserve Enhancement Program for~~  
22 conservation in perpetuity to a federal or State agency, a local government, or a private,  
23 nonprofit conservation organization to ~~acquire, manage, manage and maintain the~~ real  
24 property or an interest in real property for the purposes set out in subsection (a) of this  
25 section. A grantee of real property or an interest in real property under this subsection  
26 ~~shall grant a conservation easement in the real property or interest in real property~~ may  
27 be asked to accept a transfer that includes a reverter or other related interest to the  
28 Department in a form that is acceptable to the Department.

29 (c) The Department shall report on the implementation of this Article to the  
30 Environmental Review Commission no later than 1 November of each year. The  
31 Department shall maintain an inventory of all conservation easements held by the  
32 Department. The inventory shall be included in the report required by this subsection."

33 **SECTION 8.** This act is effective when it becomes law.